

May 6, 1958

MEMORANDUM

To: Milton R. Kowitz
Theodore Leskes
Mildred Mahoney
Milo Manley

From: Harold A. Lott

Subject: Comments upon Committee Report and Recommendations

It is a matter of complete amazement to me that in the short time available to you and the adverse conditions under which you have been required to work, you have been able to come forth with such a comprehensive report and valuable contributions to our thinking. Because of our inability to meet Tuesday as a group to discuss these several points that deserve a bit more examination, it was agreed that Dr. Milligan, Deputy Attorney General Cook and I would register with you our independent reactions. In this instance, I shall comment categorically upon the several items presented by you.

Part I

1. A. There was considerable discussion with Mr. Leskes in which Dr. Milligan, Mr. Cook and I all agree that it would not be good administrative procedure in the light of our type of organization for Dr. Milligan and I both to play an active role in the handling of cases. Our particular structural organization does not lend itself to the sharing of case responsibilities as applies in the agencies having several salaried commissioners on a comparable level served by full-time legal staff. We have been and are sensitive to the need of presenting to recalcitrant respondents a show of firmness, dignity and ability as the situation requires it. More recently, as we have been able to claim more time of Deputy Attorney General Cook, he has been drawn into conciliation conferences as a second part of the compliance team, bringing with him as he does the majesty and might of the Department of Law of the State of New Jersey. Your comments certainly have served to make us much more sensitive to the need for higher level conferences in achieving a broader and more satisfactory base of settlement.

C. The Division has considered very seriously in the past your proposal that Dr. Milligan and Mr. Lett sacrifice public group meetings for more active supervision of case handling. We firmly believe that the climate of receptivity in New Jersey with which our other works have been greeted is a direct result of the tremendous amount of spade work that we have given to influence that climate. It must be remembered that no state in the east has had the unfortunate racial climate that has been New Jersey's down through the years, and that the operation of the Law against Discrimination in New Jersey was not initiated in the same kind of climate that prevailed in New York or the New England states. Because of this experience and these conclusions, long ago we decided that we must attempt to achieve a balance between these two responsibilities. Your comments cause us to re-examine that which would constitute a reasonable balance.

2. The basic law of New Jersey prevents any state department from engaging its own counsel. All legal service to the departments is provided by the Department of Law and Safety within which rests the Attorney General's Department. We have engaged in a running battle for several years in an attempt to get more of the time of the Deputy that has been assigned to the Department of Education and others. We believe that this effort will be achieving results in the near future. Deputy Attorney General Cook will comment perhaps much more fully upon your suggestions of detailed activity in case handling on the part of counsel. We in the administrative staff find ourselves in agreement with Deputy Attorney General Cook.

3. Your comments on the tightening of procedures and lessening the time lag in case processing are extremely pertinent and valuable. Our initial approach to this several years ago was the assignment of our then most competent field representative as a senior investigator to do the routing and checking upon case movement. Staff changes brought into this role a second field representative who had neither the experience nor the talent for this particular operation. Approximately eight months ago, another change was effected bringing again into the scene an experienced ~~person~~ person. Within this brief time, there has been a tremendous improvement in the reviewing and routing of complaints in the field. In this new approach to the problem, we are still trying to eliminate the bugs that are indicated in the five sub-items in this particular paragraph. Your findings and comments are relevant and helpful with the one exception of your recommendation that a quarterly docket of cases be prepared and disseminated to interested agencies. In addition to inflicting more paper work on an already overwhelmed staff, we do not see the public relations value sufficient to offset the dangers of publicizing all respondents going through the case process with the Division. The kind of docket listing that you suggest is being kept from week to week for the information of the executive staff and the Civil Rights Commission.

4. The five sub-paragraphs under this item are very helpful suggestions. You should be informed that months ago, we decided that a short closing letter was unsatisfactory, if not discourteous. Within recent months, therefore, we have followed the consistent practice of giving a written explanation except in instances where the field representative has given that kind of explanation in face to face interview after case conference has indicated this

form of disposition. In the more complex cases, occasionally we accompany a closing letter with a Statement of Findings which gives a fuller explanation of the cause for disposition. Also with respect to the Memorandum of Agreement, we abandoned the use of a mimeographed form quite some time ago, but retained the form as a guide for each new typed Memorandum that each new situation warrants.

5. The recommendation as to follow-up of complaints has been one that has plagued the Division since its inception. We have always seen our direct responsibility to be one of determining whether or not our so-called satisfactory adjustments were really that. The matter of manpower has been presented to you repeatedly during your inquiry. This has been the principal deterrent. Our judgments have operated toward the utilization of manpower on certain fact-finding efforts as a choice between that and a consistent check-back. This is not to say that we have not done any check-backs; it is to admit that we have not done the consistent, regular, universal check-back that should be done. Your comments certainly will be cause for a review of the validity of our judgments heretofore.

6. Deputy Attorney General Cook has already discussed with Mr. Leskes a number of statutory amendments to the New Jersey Law against Discrimination. It should be said that the amendments that have been made in recent years have been the result of independent action by voluntary agencies who in no single instance has consulted us in a formal exploratory manner to determine what would be the Division reaction to the amendment. In other words, we have had little choice except to engage in lobbying activity to determine what legislation has been or will have been presented. Your findings and recommendations, without a doubt, will engage some of the attention of Deputy Attorney General Cook.

7. We agree with your recommendations as to a more vigorous exploration of policy even where an individual complainant does not stand up. Our success in that will be improved, I am sure, as our new supervisory arrangement results in better mechanics in our procedures.

8. There is great merit to this suggestion, and it will be given serious consideration.

9. In contrast to some of our sister agencies, New Jersey has never classed as a complaint, nor carried in official registries, matters affecting illegal employment application forms. The reason is that the volume of such corrections would make this kind of recording prohibitive. As a direct result of our employment surveys, and through routine practices of picking up forms involved in employment complaints, we have passed upon thousands of forms. We maintain a live file from which information may be obtained at any time. We are at a loss to explain how your committee got the impression that we have no current record in matters of this sort. We have not entered these into statistical reporting, but we are able to maintain an intimate and accurate check on forms that have been reviewed.

10. We cannot accept the suggestion that the Division has had an "easy inclination to permit the owner of swimming pools...to convert...to an allegedly private club". Wherever we have had a legitimate complaint that could bear investigation, we have processed this complaint. Four of our ten situations going to litigation were swimming pool cases that resisted

conciliatory efforts. No other type of facility in New Jersey equals this record. The impression has come to you, without a doubt, from individuals who either were misinformed as to the actual elements in the case, or who had reasons to misinterpret these facts to you. We do admit that swimming pools represent our greatest resistance in the area of public accommodations. We call to your attention, however, that very few Negroes will submit to the kind of experience out of which proof can be established. We have yet to find the pool operator that admits that he discriminates.

Part II

1. This is a very valuable suggestion which we hope can be implemented.
2. We have seen the need for a professionally-directed research program since our inception. Our nearest approach has been to assign various fact-finding jobs to field representatives, only one of whom has had research experience.
3. This, too, is an extremely helpful recommendation.
4. Periodic, and not infrequently, staff conferences are conducted and have been for many years. We agree with your recommendations in this regard.
5. We believe that reports and other literature can be valuable only to the degree that sufficient imagination is put into its creation that will catch the attention of people and impart valuable information. This is an area that can always stand improvement.
6. There are many of us on the staff who have never been happy with our present office location and set-up. We agree with you that it could be improved immeasurably.
7. This item was opened by the staff well over a year ago, and an inquiry made of our sister agencies from which a report was drawn for the benefit of the Commissioner and the Civil Rights Commission. An analysis of salaries for comparable staff operations was made and the Civil Rights Commission accepted the report. The implementation of that suggestion rests with the appropriating officials and bodies in the State government.
8. I find no comment to make on this particular point.